

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JARED WOOD, an individual, on behalf of himself and others similarly situated, Plaintiff, v. BEST BUY CO., INC., a Minnesota corporation, and DOES 1 through 50, inclusive, Defendants.

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) Case No. 11-1877 SC  
) ORDER GRANTING BEST BUY'S  
) MOTION TO TRANSFER

**I. INTRODUCTION**

This action is one of six putative class actions recently filed in California alleging that Best Buy Stores, L.P. or Best Buy Co., Inc. (collectively, "Best Buy") violated California's Song-Beverly Act by recording customers' ZIP codes while completing the customers' credit card transactions. See Cal. Civ. Code § 1747.08.<sup>1</sup> All five of the other actions were either filed in, removed to, or transferred to the United States District Court for the Central District of California. Gass v. Best Buy Stores, L.P., C.D. Cal. Case No. CV-11-01507-SJO; Reese v. Best Buy Stores, L.P.,

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<sup>1</sup> Litigation on this issue is an offshoot of the California Supreme Court's holding in Pineda v. Williams-Sonoma that requesting and recording ZIP codes as part of consumer credit card transactions violates the Song Beverly Act. 51 Cal. 4th 524, 527-28 (2011).

1 C.D. Cal. Case No. CV-11-02552-SJO; Zelis v. Best Buy Co., Inc.,  
2 C.D. Cal. Case No. CV-11-05915-SJO; Milton v. Best Buy Co., Inc.,  
3 C.D. Cal. Case No. 11-CV-6913-GHK-JEM; Bennett v. Best Buy Stores,  
4 L.P., C.D. Cal. Case No. 11-CV-06953-GW-JEM.

5 Presently before the Court is Best Buy's Motion to Transfer  
6 this action to the Central District pursuant to 28 U.S.C. §  
7 1404(a). ECF No. 20 ("Mot."). Plaintiff Jared Wood {"Plaintiff"}  
8 filed an Opposition. ECF No. 28 ("Opp'n"). Best Buy filed a  
9 Reply. ECF No. 30 ("Reply"). For the reasons that follow, the  
10 Court GRANTS Defendant's motion and TRANSFERS this case to the  
11 Central District.

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13 **II. LEGAL STANDARD**

14 Under Section 1404(a) of Title 28 of the United States Code, a  
15 district court has discretion to transfer a civil case to any other  
16 district court where the case might have been brought "for the  
17 convenience of parties and witnesses, [and] in the interest of  
18 justice." The purpose of section 1404(a) is "to prevent the waste  
19 of time, energy, and money and to protect litigants, witnesses, and  
20 the public against unnecessary inconvenience and expense." Van  
21 Dusen v. Barrack, 376 U.S. 612, 622 (1964).

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23 **III. DISCUSSION**

24 Defendant argues that the section 1404(a) factors support  
25 transfer because: (1) this case could have been brought in the  
26 Central District; (2) transfer would be in the interest of justice  
27 and would conserve judicial resources; and (3) the Central District  
28 would be a more convenient forum for the parties and witnesses.

1 Mot. at 5-12. Plaintiff does not dispute that this case could have  
2 originally been filed in the Central District. Opp'n at 2.  
3 Rather, he argues that transfer is unwarranted because the Central  
4 District is not more convenient and transfer would not enhance  
5 judicial economy. Id. The Court agrees with Defendant.

6 The interest of justice alone can be decisive even if witness  
7 and party convenience weigh against transfer. Elecs. for Imaging,  
8 Inc. v. Tesseron, Ltd., No. C 07-05534, 2008 U.S. Dist. LEXIS  
9 10844, at \*3 (N.D. Cal. Jan. 29, 2008) (transferring action based  
10 on interest of justice and noting that "[c]onsideration of the  
11 interest of justice, which includes judicial economy, may be  
12 determinative to a particular transfer motion, even if the  
13 convenience of the parties and witnesses might call for a different  
14 result"). The Supreme Court and the Ninth Circuit have long  
15 recognized that "[t]o permit a situation in which two cases  
16 involving precisely the same issues are simultaneously pending in  
17 different District Courts leads to the wastefulness of time, energy  
18 and money that § 1404(a) was designed to prevent." Continental  
19 Grain Co. v. Barge FBL-585, 364 U.S. 19, 26 (1960); A.J. Indus.,  
20 Inc. v. U.S. Dist. Ct. for the Cent. Dist. of Cal., 503 F.2d 384,  
21 389 (9th Cir. 1974) ("[T]he pendency of an action in another  
22 district is important because of the positive effects it might have  
23 in possible consolidation of discovery and convenience to witnesses  
24 and parties.").

25 Here, the interest of justice, including interests in judicial  
26 economy and preventing inconsistent rulings, weighs heavily in  
27 favor of transfer. The instant case is nearly identical to the  
28 five actions currently pending in the Central District. Best Buy

1 is the defendant in all six cases, and although the plaintiffs  
2 differ, they seek to represent essentially the same putative class  
3 of California consumers related to the same legal and factual issue  
4 (alleged violations of the Song-Beverly Act by requiring customers  
5 to provide personal identifying information to complete credit card  
6 transactions). Compare 11-1877 ECF No. 6 ("Wood FAC") ¶ 22 ("This  
7 lawsuit is brought on behalf of an ascertainable statewide class  
8 consisting of all persons in California from whom Defendant  
9 requested and recorded personal identification information in  
10 conjunction with a credit card transaction."); with Def.'s RJN<sup>2</sup> Ex.  
11 4 ("Gass FAC") ¶ 13 (lawsuit brought on behalf of "all individuals  
12 who made one or more purchases from a Best Buy store in California  
13 with a credit card and had their ZIP code recorded by Best Buy  
14 during the transaction."); Def.'s RJN Ex. 8 ("Bennett Compl.") ¶ 20  
15 (lawsuit brought "on behalf of all persons from whom Defendants  
16 requested and recorded personal identification information in  
17 conjunction with a credit card transaction in California"); Def.'s  
18 RJN Ex. 7 ("Zelis Compl.") ¶ 19 (same).

19 Because Plaintiff's claim and the class he seeks to represent  
20 are nearly identical to the claims and putative classes of the  
21 cases pending in the Central District, declining to transfer the  
22 case would waste judicial resources and risk the injustice of  
23 conflicting outcomes. Indeed, California courts routinely grant  
24 motions to transfer putative class actions to districts where  
25 identical putative class actions are pending. See, e.g., Gatdula

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26 <sup>2</sup> Defendant asks the Court to take judicial notice of the  
27 complaints filed in the Bennett, Zelis, Gass, and Reese actions.  
28 ECF No. 25 ("Def.'s RJN"). Because the complaints are public  
documents not subject to reasonable dispute, the Court GRANTS  
Defendant's request pursuant to Federal Rule of Evidence 201.

1       v. CRST Int'l, Inc., No. CIV-10-58, 2011 U.S. Dist. LEXIS 13706, at  
2 \*9-11 (E.D. Cal. Feb. 7, 2011); Greenwell v. Belkin, No. C-0602760,  
3 2006 U.S. Dist. LEXIS 76231, at \*7 (N.D. Cal. Oct. 10, 2006).

4           Lastly, while the interest of justice alone is sufficient  
5 cause for transfer, Plaintiff concedes that other factors courts  
6 often consider when performing a section 1404(a) analysis -- such  
7 as the convenience of witnesses, access to sources of proof, and  
8 the relative caseloads of the districts involved -- are essentially  
9 neutral between this Court and the Central District. Opp'n at 2-4.  
10 The only factor Plaintiff identifies that weighs against transfer  
11 is the Plaintiff's choice of forum. Id. While a plaintiff's  
12 choice of forum is a factor courts often consider when deciding  
13 whether to transfer a case under section 1404(a), a putative class  
14 representative's choice of forum "is not entitled to the same  
15 degree of deference as an individual plaintiff pursuing her own  
16 claim on her own behalf." Bennett v. Bed Bath & Beyond, Inc., No.  
17 C-11-22220-CRB, 2011 U.S. Dist. LEXIS 79973, at \*7 (N.D. Cal. July  
18 22, 2011). That Plaintiff indicates a preference for the Northern  
19 District is not enough to tip the scales against transfer in this  
20 case.

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1       **IV. CONCLUSION**

2       For the foregoing reasons, the Court GRANTS the Motion to  
3 Transfer filed by Defendant Best Buy Co., Inc. against Plaintiff  
4 Jared Wood and TRANSFERS the instant action to the United States  
5 District Court for the Central District of California.

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7       IT IS SO ORDERED.

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9       Dated: August 25, 2011

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12       UNITED STATES DISTRICT JUDGE